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September 12, 2012

* Partner responsible - Bruce S. Katcher

Via Overnight Delivery
Harry R. Steinmetz (3HS62)
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Jacob Stern & Sons, Inc.
Response to EPA 104(e) Information Request
Safety Light Corporation Superfund Site

Dear Mr. Steinmetz:

On behalf of our client, Jacob Stern & Sons, Inc. ("Jacob Stern"), we are submitting the enclosed Response to EPA's July 17, 2012 CERCLA 104(e) request for information related to the Safety Light Corporation Superfund Site. We appreciate EPA's courtesy in extending the deadline for submission of Jacob Stern's Response until September 16, 2012. If you have any questions, please let us know.

Sincerely,

Joseph M. Manko

For MANKO, GOLD, KATCHER & FOX, LLP

JMM/amm/10084-0005
Enclosures

1025997_1



**RESPONSE OF JACOB STERN & SONS, INC.
TO EPA INFORMATION REQUEST UNDER SECTION 104(e) OF CERCLA**

Jacob Stern & Sons, Inc. ("Jacob Stern") hereby responds to the request for information (the "Information Request") transmitted to Acme-Hardesty, an operating division of Jacob Stern's,¹ by the United States Environmental Protection Agency ("EPA") under cover letter dated July 17, 2012, pursuant to Section 104(e) of the Comprehensive Environmental Response Compensation and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9604(e), as such Information Request relates to a facility identified by EPA as the Safety Light Corporation Site located in Bloomsburg, Columbia County, Pennsylvania (the "Site").²

GENERAL OBJECTIONS

Based upon its review of the Information Request, Jacob Stern regards individual components of the Information Request as vague or ambiguous. By way of example only, the Information Request is vague or ambiguous to the extent that the Information Request does not define various terms or purports to define terms other than by their commonly understood meaning. Jacob Stern specifically states that it has provided responses to the Information Request based upon its understanding of the requests and the common usage of specific terms not otherwise defined.

Jacob Stern further objects to the Information Request to the extent that any individual request is overly broad and not reasonably calculated to lead to the revelation of relevant information pertinent to the Site, and/or that responding thereto would be unduly burdensome or expensive. In this respect, Jacob Stern specifically objects to the Information Request in that it purports to require detailed information for a time period spanning 67 years (i.e., 1945 to the present).

Jacob Stern construes its obligation to respond to the Information Request as coextensive with the scope of EPA's authority pursuant to Section 104(e) of CERCLA, and has interpreted such requests on the premise that the Information Request is reasonably related to information relevant to EPA's lawful objectives pursuant to Section 104(e) of CERCLA.

Jacob Stern specifically reserves all rights to assert legally recognized privileges to protect against the disclosure of information, including without limitation the attorney-client privilege and the protection from disclosure pursuant to the attorney work product doctrine. Jacob Stern does not waive any such right or privilege by its response to the Information Request, and hereby specifically asserts such privileges and protections as applicable.

In responding to the Information Request, Jacob Stern has reviewed information currently available to Jacob Stern and relevant to the Information Request. Jacob Stern expressly states that its response to the Information Request is limited by the current availability of information

¹ Acme-Hardesty is an operating division of Jacob Stern but is not a separate legal entity. Because Acme-Hardesty falls within the definition of "you" provided in Enclosure 2 of the Information Request, Jacob Stern responds herein on behalf of Acme-Hardesty.

² At the request of Jacob Stern's outside counsel, EPA extended the deadline for responding to the Information Request until September 16, 2012.

and reserves the right to supplement, modify and/or amend its response if new or additional information becomes available. Jacob Stern has undertaken a reasonable investigation designed to identify available existing documents, if any, or other information in its possession, custody or control. Such available information forms the basis for Jacob Stern's response. Jacob Stern objects to the Information Request to the extent that it seeks information that is not in Jacob Stern's possession, custody or control. Jacob Stern further objects to the "Instructions" included with the Information Request to the extent that it purports to expand its obligations beyond those imposed under Section 104(e) of CERCLA.

In responding to this Information Request, Jacob Stern has not and shall not be deemed to have admitted any liability or responsibility under CERCLA or any other statute. Nothing in this response is intended to waive, restrict or otherwise impair any arguments or defenses to liability under CERCLA or otherwise, and Jacob Stern hereby expressly preserves its rights and ability to raise any and all such arguments and defenses.

Jacob Stern fully incorporates by reference the foregoing general objections into each of its responses to individual information requests, and will therefore not restate such objections within all individual responses. In addition, by providing responses to individual information requests, Jacob Stern does not thereby waive or limit the foregoing general objections.

Subject to, and without waiving or limiting the foregoing objections, Jacob Stern responds to the Information Request as follows.

ANSWERS

Preliminary Statement

The Information Request purports to require Jacob Stern to provide information concerning business dealings with the Safety Light Corporation and any of its predecessor or affiliated companies referenced in EPA's July 17, 2012 letter (collectively, "Safety Light") or the Site for the time period between 1945 and the present.

After a good faith search, Jacob Stern has been unable to locate any documents either at its Santa Barbara, California headquarters or at the Acme-Hardesty's divisional headquarters in Blue Bell, Pennsylvania concerning its business dealings with Safety Light or the Site. Accordingly, information contained in this Response to the Information Request is based principally upon the two documents provided by EPA in Enclosure 4 of the Information Request, identified by the Bates Numbers SL000001 and SL000002. According to the Information Request, these documents indicate that "Acme-Hardesty Company may have arranged for the disposal of items containing radionuclides such as radium foil at the Safety Light Site."

As a preliminary matter, Jacob Stern notes that the documents do not indicate that Acme-Hardesty arranged for disposal of radium foil at the Site. Instead, the documents indicate that Acme-Hardesty arranged for disposal of radium foil from its plant with the United States Radium Corporation in *Morristown, New Jersey*, which is approximately 125 miles from the Site. By providing the documents in Enclosure 4, EPA suggests that the Acme-Hardesty materials may have been sent by United States Radium Corporation from Morristown to the Site. If that is EPA's suggestion, Jacob Stern has no information regarding whether, and if so, how, materials

sent to United States Radium Corporation in Morristown by Acme-Hardesty (or by any other company, for that matter) may have come to be located at the Site. At the very least, there is no indication in the documents provided that Acme-Hardesty designated the disposal location of the radium foil identified in the documents provided in Enclosure 4. Any transportation of materials from Morristown to the Site and/or their ultimate disposal at the Site would have been a decision made unilaterally by United States Radium Corporation after it received the materials.

Jacob Stern further notes that the documents provided as SL000001 and SL000002 appear to be two carbon tear-away sheets from *the same order form* (as seen in order forms still in use today with multiple sheets in multiple colors, where yellow goes to the customer, pink goes to accounting, blue goes to shipping/receiving, etc.). The bottom of SL000002 indicates that it is the Plant Manager Order Copy. It appears to be the order form for Order Number BL-066913, indicating that one unit of radium foil from a Barber-Colman gas chromatography cell at Acme-Hardesty was to be disposed of as radioactive scrap. The foil was received and disposed of on May 27, 1968³ and the order was processed on May 28, 1968. There is a "1" in the space for "Shipment No.," which suggests that this was the first transaction between Acme-Hardesty and United States Radium Corporation. Given that EPA has provided no other documents in Enclosure 4, it appears that this was the first and *only* transaction between Acme-Hardesty and United States Radium Corporation. The bottom of SL000001 indicates that it is the Accounting Invoice Copy. SL000001 is the same as the top half of SL000002, with additional handwriting and a stamp indicating that the invoice number was 28786 and that the invoice date was May 31, 1968. The total payment due was \$15 (which would be worth approximately \$100 today). In short, the two documents provided in Enclosure 4 of the Information Request appear to be two parts of the same original document, recording one \$15 transaction in 1968 for disposal of one unit of radium foil by United States Radium Corporation.

Jacob Stern could locate no additional documents relevant to this transaction or any other business dealings between Acme-Hardesty and Safety Light or the Site. Philip Bernstein, Jacob Stern's Chairman, is the only employee of Jacob Stern's who was in its employ when Acme-Hardesty was still operating plants (Acme-Hardesty has not operated any plants since 1980). While he recalls that Acme-Hardesty did operate a gas chromatograph at one time, he has no recollection of how the gas chromatograph was operated, which employees operated it, or how radium foil was disposed. Any employee who would have operated the gas chromatograph has long since left the company, and Jacob Stern has no contact information for former employees from this time period. Jacob Stern could locate no other documents regarding its operation of the gas chromatograph or its disposal of radium foil.

Jacob Stern fully incorporates by reference the foregoing Preliminary Statement into each of its responses to individual information requests to which it may be applicable, and therefore may not restate such factual information within all individual responses.

³ The timing of the receipt and disposal of the radium foil by United States Radium Corporation on May 27, 1968 raises additional questions as to how the foil could have been received in Morristown, New Jersey and then disposed of at the Site, approximately 125 miles away, on the same day.

1. **Describe in detail any and all business relationship(s) between A-H [Acme-Hardesty] and Safety Light or its affiliates, as defined above and in the enclosed Definitions.**

As set forth in the Preliminary Statement, except for the documents set forth at Enclosure 4 of the Information Request, Jacob Stern does not have any information regarding the business relationship(s) between Acme-Hardesty and Safety Light or its affiliates.

2. **Did A-H ever send, transport or ship, or otherwise arrange for transportation or shipment of, radioactive materials or items containing radionuclides to the Site?**

No, Jacob Stern has not located any information indicating that Acme-Hardesty ever sent, transported or shipped, or otherwise arranged for transportation or shipment of, radioactive materials or items containing radionuclides to the Site.

3. **Did A-H ever send, transport or ship, or otherwise arrange for transportation or shipment of, radioactive materials or items containing radionuclides to Safety Light Corporation, U.S. Radium Corporation, Lime Ridge Industries, Inc., USR Industries, Inc., USR Metals, Inc., Metreal Corporation, Isolate Corporation, U.S. Natural Resources, Inc., USR Chemical Products, Inc., USR Lighting Products, Inc., UNATCO Funding Corporation or Shield Source Incorporated?**

As set forth in the Preliminary Statement, Jacob Stern has not located any information indicating that Acme-Hardesty shipped materials containing radionuclides to a Safety Light affiliate, other than what is contained in the documents provided as Enclosure 4 of the Information Request.

4. **If you answered "yes" to Question 2 or Question 3, please respond to the following:**

- a. **Provide the time period during which each such transaction occurred.**

One transaction on May 27, 1968.

- b. **Provide the purpose or reason for each such transaction.**

Disposal.

- c. **For each and every transaction, provide:**

- i. **the entity to which you sent radioactive materials or items containing radionuclides (i.e., Safety Light Corporation, U.S. Radium Corporation, Lime Ridge Industries, Inc., USR Industries, Inc., USR Metals, Inc., Metreal Corporation, Isolate Corporation, U.S. Natural Resources, Inc., USR Chemical Products, Inc., USR Lighting Products, Inc., UNATCO Funding Corporation or Shield Source Incorporated);**

United States Radium Corporation in Morristown, New Jersey.

- ii. **a detailed description of each radioactive material or item or type of item(s) sent and the amount of radionuclides contained within each such material or item(s);**

Radium foil removed from a Barber-Colman gas chromatography cell. Jacob Stern has no further information regarding the radium foil or the amount of radionuclides contained within it.

- iii. **the method used to send or transport such radioactive materials or items to the Site (e.g., hauler, U.S. mail, etc.);**

Not known.

- iv. **the date(s) of the pickup and delivery of radioactive material or item(s) containing radionuclides;**

May 27, 1968.

- v. **all documents relating to the transaction, including but not limited to invoices, and correspondence regarding the type, amount, and transportation/disposal of the radioactive material or item(s) containing radionuclides to the Site;**

Jacob Stern has not located any other documents relating to the transaction, other than those provided by EPA as Enclosure 4 of the Information Request.

- vi. **the name, title, areas of responsibility, current (or most recent) addresses, and telephone numbers of other persons or parties that have documentation or information pertaining to the transportation/disposal of radioactive material or item(s) containing radionuclides to the Site, and/or to the entities identified in Question 3.**

Jacob Stern has no current knowledge or information about any such persons or parties.

- d. **If your response to the above includes the contracting of a hauler or transporter to transport and/or dispose of radioactive material or item(s) containing radionuclides, explain those arrangements and provide all documentation relating to those transactions. In addition, please identify:**

- i. **the persons with whom you, or other such persons, made such arrangements;**
- ii. **every date on which such arrangements took place;**
- iii. **for each transaction, the nature and quantity of material, including its chemical content, characteristics, physical state (i.e., liquid, solid), and the process for which the substance was used or the process that generated the substance;**

- iv. the persons who selected the Site as the place at which materials were disposed or treated;
- v. the names of employees, officers, owners, and agents for each transporter:

Not applicable.

- e. For each and every instance in which you/your company arranged for radioactive material to the Site, identify:

- i. The quantity (number of loads, gallons, drums) of materials that were used, treated, transported, disposed, or otherwise handled by you; and
- ii. Any billing information and documents (invoices, trip tickets, manifests) in your possession regarding arrangements made with your company to generate, treat, store, transport, and/or ship materials to the Site.
- iii. The names, titles, and areas of responsibility of any persons, including all A-H employees, present and former, who were involved in or would have knowledge of such arrangements.

Not applicable

- f. Describe any permits or applications and any correspondence between A-H and any regulatory agencies regarding materials transported to or disposed of at the Site.

Jacob Stern located no permits or applications in connection with the Site and has had no correspondence with any regulatory agency regarding the Site until receiving the July 17, 2012 cover letter with the Information Request from EPA.

- g. Provide copies of any correspondence between A-H and any third party regarding materials transported to or disposed of at the Site.

Jacob Stern has no current knowledge or information about any such correspondence.

- h. Provide the identity of, and copies of any documents relating to, any other person who generated, treated, stored, transported, or disposed, or who arranged for the treatment, storage, disposal, or transportation of such materials to the Site.

Jacob Stern has no current knowledge or information about any such persons.

- i. Provide the identities of all predecessors-in-interest who, during the period 1945 to the present, transported to or stored, treated, or otherwise disposed of any materials at the Site and describe in detail the nature of your predecessor-in-interest's business.

Jacob Stern has no current knowledge or information about any such predecessors-in-interest.

5. **Did A-H ever generate other waste(s), not described in response to Questions 2 or 3 above, that were disposed of or reclaimed by U.S. Radium Corporation, Lime Ridge Industries, USR Industries, USR Metals, Metreal or Isolate at the Site? If yes, please provide a detailed description of such other waste(s) and any and all related documentation.**

Jacob Stern has no current knowledge or information regarding the generation of any other waste(s) disposed of or reclaimed by any of the above-cited entities.

6. **For each question above, provide the name, title, area of responsibility, current address, and telephone number of all persons consulted in preparation of the answers, or who supplied documents reviewed or relied upon in the course of preparing your answers.**

See the Preliminary Statement regarding Jacob Stern's Chairman Philip L. Bernstein, whose address and telephone number are as follows:

1464 E. Valley Road
Santa Barbara, CA 93108
(805) 565-1411

7. **If you have any reason to believe there may be persons able to provide more detailed or complete responses to any question contained herein, or who may be able to provide additional responsive documents, provide the names, titles, areas of responsibility, current addresses, and telephone numbers of such persons as well as additional information or documents they may have.**

Jacob Stern has no current knowledge or information about any such persons.

8. **If you have any other information about other party(ies) who may have information that may assist the Agency in its investigation of the Site, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.**

Jacob Stern has no current knowledge or information about any such other parties.

9. **If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If pertinent records or documents were destroyed or are missing, provide us with the following:**


- a. **Your document retention policy;**
- b. **A description of how the records were destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;**
- c. **A description of the type of information that would have been contained in such documents; and**

- d. **The name, job title and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.**

Jacob Stern retains its documents for seven years. Then, depending on the confidentiality and sensitivity of the documents in question, they would be shredded or trashed, as appropriate. Although Jacob Stern generally does not have documents from the time that Acme-Hardesty operated plants, Jacob Stern nevertheless conducted a good faith search of files in its possession, custody, or control in California and Pennsylvania to locate documents responsive to this Information Request. Jacob Stern has no information indicating that any other documents responsive to the Information Request were destroyed at any other time or are missing, nor does Jacob Stern believe that, absent its document retention policy, it would have located any documents responsive to the Information Request other than those already provided by EPA in Enclosure 4 to the Information Request. To the extent that any additional documents responsive to this Information Request ever did exist, Jacob Stern has no information regarding when or how those documents would have been destroyed, or who would have been responsible for their destruction.

To the best of my knowledge and belief, the foregoing responses to the Information Request are accurate and complete. I am authorized to sign this Response on behalf of Jacob Stern & Sons, Inc.

Jacob Stern & Sons, Inc.


Philip L. Bernstein, Chairman
Jacob Stern & Sons, Inc.

Dated: September 11, 2012


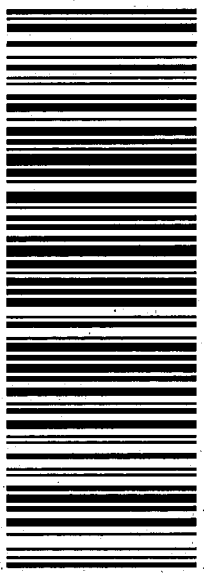

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